REMARKS

Claims 1-33 are pending in the application.

Claims 1-33 have been rejected.

Rejection of Claims under 35 U.S.C. §102(e)

Claims 1-33 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bitner et al. (USPPN 2004/0153614) ("Bitner"). Applicants respectfully traverse this rejection.

As will be appreciated, "[a] … claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submit that this burden has not been met by the present Office Action, because certain elements recited in each of Applicants' independent claims are not present in Bitner.

Claim 1 recites a virtual device interface, which is configured to allow a primary storage device to be accessed using at least one operation that is substantially the same as that used to control a secondary storage device, where the primary storage device is accessed using the at least one operation in response to a call received from a utility by the virtual device interface, where the virtual device interface is also coupled to control both the primary storage device and secondary storage device.

Bitner describes a virtual tape storage computer system operable in an open systems environment, in which a host computer 120 using a backup application 121 can back up data to a disk library unit (DLU) 128 via a virtual tape library (VTL) server 124 or to a tape library via a path that bypasses the VTL server 124. Bitner, ¶¶ [0056], [0011], and FIG. 7.

The Office Action cites figure 8 and paragraph 20 of Bitner as teaching "backup application and VTL [server] as virtual device interface for primary device 150." Office Action, p. 3. Thus, the Office Action appears to be equating the combination of the backup application and the VTL server with the virtual device interface of claim 1. However, as described in more detail below, unlike the virtual device interface of claim 1, the proposed combination of Bitner's backup application and VTL server is incapable of receiving a call from a utility.

The Office Action cites figure 8 and paragraph 56 of Bitner as disclosing "backup application and VTL [server] receives a call by a routine/utility in an user program."

Office Action, p. 3-4. Paragraph 56 describes the implementations shown in figures 7 and 8 of Bitner, stating that a "backup application 121 in host 120 initiates... media duplication" (emphasis added). In Bitner, backup applications act as initiators in issuing commands to target tape storage devices. Bitner, ¶ [0059]. Thus, in Bitner, the backup application appears to be the component that requests access to the various storage devices. Nothing in the cited portions of Bitner discloses any other routine, utility, or user program that would make a call to the combined backup application and VTL server. Thus, the combination of the backup application and VTL server cannot receive a call from a routine/utility in a user program as described in the Office Action. Instead, such a system would initiate activity internally: the backup application initiates the command issued to a target tape storage device, and the "VTL server 188 . . . accepts the host (initiator) request (command)." Bitner, ¶ [0088]. Thus, the cited art fails to teach or suggest that that the combination of the backup application and the VTL server could receive a call from a routine/utility in a user program. Accordingly, Bitner fails to teach or suggest the virtual device interface of claim 1, which explicitly receives a call from a utility.

The Office Action cites figure 7 of Bitner, where Bitner is said to disclose "virtual devices interfacing comprises primary storage 128 and secondary storage 130," as the basis for the assertion that Bitner teaches "said virtual device interface is coupled to control said primary storage device and said secondary storage device." Office Action, p. 4. Applicants respectfully note that the claimed virtual device interface is "coupled to control" both a primary and secondary storage device in order to provide a requesting utility with access to said primary and secondary storage devices. Figure 7 illustrates the media duplication of data stored in the disk library unit (DLU) 128 and archived in the tape library unit (TLU) 130 (see arrows 135, 136), where the VTL server provides the backup application with access to the DLU to retrieve data, and then the backup application accesses the TLU to archive such data. Bitner, ¶ [0056]. Thus, neither the backup application nor the VTL server, separately, is "coupled to control" both the primary and secondary storage device. Thus, neither of these components is independently coupled to control both the primary and the secondary storage device.

Furthermore, as described above, if one were to attempt to equate the combination of the backup application and VTL server with claim 1's virtual device interface, as prescribed by the Office Action, the combination of the backup application and VTL

server does not anticipate claim 1's virtual device interface because Bitner's combination is not capable of receiving a call from a utility. Thus, the interpretation of the cited art prescribed by the Office Action fails to teach or suggest a virtual device interface that is both "coupled to control" both a primary and secondary storage device and able to receive a call from a utility.

For at least the foregoing reasons, applicants respectfully submit that the Office Action fails to demonstrate that Bitner shows, teaches or suggests the foregoing features of claim 1. Independent claims 10, 16, 22, and 28 are also patentable over the purported cited art for similar reasons. Accordingly, Applicants respectfully submit that independent claims 1, 10, 16, 22, and 28 and their dependent claims 2-9, 11-15, 17-21, 23-27, and 29-33 are in condition for allowance. Applicants therefore respectfully request the Examiner's reconsideration and withdrawal of the rejections to these claims and respectfully request a notice of allowance of these claims.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephone interview, the Examiner is invited to telephone the undersigned at 512-439-5087.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

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